

Chief Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Petitioner,

v.

ROBERT D. THORSON,

Respondent.

NO. CV18-136 RSM

GOVERNMENT’S REPLY RE: WAIVER
OF ATTORNEY CLIENT PRIVILEGE
AND TO AMEND § 2255 MOTION
BRIEFING SCHEDULE

Noted For: Friday, May 3, 2019

The United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and Stephen P. Hobbs, Assistant United States Attorney for said District, hereby files this reply brief regarding waiver of attorney client privilege and to amend the 2255 motion briefing schedule.

In its original motion (Dkt. 28), the government requested that the Court issue an order recognizing that Thorson has implicitly waived the attorney-client privilege with respect to the ineffective assistance of trial counsel claims raised in his 2255 motion (Ground for Relief Four). The government sought an order permitting Thorson’s former attorney to speak with the government about the ineffective assistance of counsel claims and to provide copies of any documents from his case file pertaining to these issues.

In his response to the government’s motion, Thorson has utterly failed to address the factual and legal basis for the government’s request and simply asserts that “he has

not implicitly waived any constitutional rights either knowingly or intentionally.” Dkt. 30, p. 1. Accordingly, the government respectfully requests that the Court either:

- (1) Accept Thorson’s specific contention that he is declining to waive any constitutional rights (specifically including the attorney client privilege with his former attorney) and strike Ground for Relief Four from Thorson’s 2255 motion in its entirety; or
- (2) Find, despite his protestation to the contrary, that Thorson has implicitly waived the attorney-client privilege by raising ineffective assistance of counsel claims in his 2255 motion and issue an order (as originally requested by the government) requiring his former attorney to speak with the government about any and all the issues raised in Ground for Relief Four.

If the Court adopts the first approach, the government would withdraw its motion to amend the briefing schedule and is prepared to file its answer to the 2255 motion on Friday, May 10, 2019. If the Court adopts the second approach, the government respectfully requests that the Court grant the government’s motion to amend the briefing schedule and direct that the government’s answer brief filed by Friday, June 28, 2019.

DATED this 22nd day of April, 2019.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and to be served on the Defendant, Robert Thorson, who is proceeding *pro se*, by First Class Mail to the following address:

Robert Thorson, Registration No. 48042-086
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/s/ Becky Hatch

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